

AMENDED IN SENATE JUNE 23, 2010

AMENDED IN ASSEMBLY APRIL 28, 2010

AMENDED IN ASSEMBLY APRIL 26, 2010

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 2390

**Introduced by Assembly Member Buchanan
(Principal coauthor: Assembly Member Torrico)**

February 19, 2010

An act to amend ~~Sections 3300 and 4104 of~~ *Section 3300 of, and to add Section 4104.6 to,* the Public Contract Code, relating to public contracts.

LEGISLATIVE COUNSEL'S DIGEST

AB 2390, as amended, Buchanan. Public works projects: bidding practices: licenses and ~~worker's~~ *workers'* compensation insurance.

Existing law requires a public entity, the University of California, and the California State University to specify for inclusion in any plans and notice prepared for a public project the classification of the contractor's license, which a contractor is required to possess at the time a contract is awarded.

This bill would, instead, require the contractor to possess that license at the time the contractor makes a bid or offer to perform the work, and would also require a contractor to possess current, ~~valid~~ workers' compensation insurance at that time.

The Subletting and Subcontracting Fair Practices Act requires the entity taking bids for public works to specify that any person making a bid or offer set forth the name and location of the place of business of each subcontractor who will perform work or labor or render service

to the prime contractor, or a subcontractor who, under subcontract to the prime contractor, specially fabricates and installs a portion of the work according to specifications, in an amount in excess of one-half of 1% of the prime contractor's total bid, or in the case of bids or offers for the construction of streets or highways, including bridges, in an amount in excess of one-half of 1% of the prime contractor's total bid or \$10,000, whichever is greater.

~~This bill would, instead, require the person making a bid or offer to set forth, in addition to contractor whose bid was accepted to provide to the awarding authority, within 5 business days of the notice of the award, each subcontractor's name and business location, the current, valid license number issued by the State of California, and proof of current, valid worker's workers' compensation insurance of each subcontractor who will perform work, labor, or render service to the prime contractor in or about the construction of the work or improvement that was listed in the contractor's bid.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 3300 of the Public Contract Code is
- 2 amended to read:
- 3 3300. (a) Any public entity, as defined in Section 1100, the
- 4 University of California, and the California State University shall
- 5 specify the classification of the contractor's license, which a
- 6 contractor shall possess at the time the contractor makes a bid or
- 7 offer to perform the work. The specification shall be included in
- 8 any plans prepared for a public project and in any notice inviting
- 9 bids required pursuant to this code. *This requirement shall apply*
- 10 *only with respect to contractors that contract directly with the*
- 11 *public entity.*
- 12 (b) A contractor shall possess current, ~~valid~~ workers'
- 13 compensation insurance at the time the contractor makes a bid or
- 14 offer to perform the work.
- 15 (c) A contractor who is not awarded a public contract because
- 16 of the failure of an entity, as defined in subdivision (a), to comply
- 17 with that subdivision shall not receive damages for the loss of the
- 18 contract.

1 (d) *This section shall not apply to a contractor that submits a*
2 *bid or offer as a joint venture, pursuant to Section 7029.1 of the*
3 *Business and Professions Code.*

4 SEC. 2. *Section 4104.6 is added to the Public Contract Code,*
5 *to read:*

6 4104.6. (a) *A contractor whose bid is accepted shall provide*
7 *to the awarding authority, within five business days of the notice*
8 *of award, the name, business location, current contractor's license*
9 *number issued by the State of California, and proof of current*
10 *workers' compensation insurance of each subcontractor listed by*
11 *the contractor in the bid pursuant to Section 4104.*

12 (b) *Any subcontractor not listed by the contractor pursuant to*
13 *paragraph (1) of subdivision (a) of Section 4104, who is*
14 *subsequently contracted to perform work, shall, prior to*
15 *commencing work, provide the awarding authority with its name,*
16 *business location, current contractor's license number issued by*
17 *the State of California, and proof of current workers' compensation*
18 *insurance.*

19 SEC. 2. ~~Section 4104 of the Public Contract Code is amended~~
20 ~~to read:~~

21 ~~4104. Any officer, department, board or commission taking~~
22 ~~bids for the construction of any public work or improvement shall~~
23 ~~provide in the specifications prepared for the work or improvement~~
24 ~~or in the general conditions under which bids will be received for~~
25 ~~the work incident to the public work or improvement that any~~
26 ~~person making a bid or offer to perform the work shall, in his or~~
27 ~~her bid or offer, set forth:~~

28 ~~(a) (1) The name, business location, current valid license~~
29 ~~number issued by the State of California, and proof of current,~~
30 ~~valid workers' compensation insurance of each subcontractor who~~
31 ~~will perform work, labor, or render service to the prime contractor~~
32 ~~in or about the construction of the work or improvement.~~

33 ~~(2) (A) Subject to subparagraph (B), any information requested~~
34 ~~by the officer, department, board, or commission concerning any~~
35 ~~subcontractor who the prime contractor is required to list pursuant~~
36 ~~to this subdivision, other than the subcontractor's name and~~
37 ~~location of business, may be submitted by the prime contractor up~~
38 ~~to 24 hours after the deadline established by the officer, department,~~
39 ~~board, or commission for receipt of bids by prime contractors.~~

1 ~~(B) A state or local agency may implement subparagraph (A)~~
2 ~~at its option.~~
3 ~~(b) The portion of the work that will be done by each~~
4 ~~subcontractor pursuant to this act. The prime contractor shall list~~
5 ~~only one subcontractor for each portion as is defined by the prime~~
6 ~~contractor in his or her bid.~~

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